

Order

Michigan Supreme Court
Lansing, Michigan

October 14, 2008

Clifford W. Taylor,
Chief Justice

ADM File No. 2008-01

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Appointment of Chief Judge
of the 37th District Court
(cities of Warren and Center Line,
Macomb County)

On order of the Court, effective immediately, the Honorable John M. Chmura is appointed chief judge of the 37th District Court, for completion of a term ending December 31, 2009.

Statement by WEAVER, J. (*dissenting*). I dissent from the administrative order appointing Judge John Chmura as Chief Judge of the 37th District Court. I would appoint Judge Jennifer Faunce as Chief Judge. Former state representative Judge Faunce is currently the Chief Judge Pro Tem and is best qualified to handle the responsibilities of chief judge.

Initially, both Judge Chmura and Judge Faunce submitted their names for consideration for the chief judge position. On October 7, 2008, State Court Administrator Carl Gromek sent a copy of Judge Faunce's fax, dated October 7, withdrawing her name from consideration for the chief judge position. Based on this information, I telephoned Judge Faunce's office on October 7 in the late afternoon to inquire about her withdrawal. She was not available at that time, so I left a message for her to call me if she would like to discuss the matter.

The following morning, October 8, at approximately 9:15 a.m., Judge Faunce returned my call. When I inquired as to why she withdrew, she told me that she was informed that she did not have the votes to be appointed. Therefore, she withdrew her name from consideration. I expressed to her that I had planned to vote for her and would continue to do so at the administrative conference. She stated that she would appreciate my casting my vote for her and thanked me for my support.

At the October 8, 2008 administrative conference at approximately 10:20 a.m., Chief Justice Taylor announced that there was only one candidate remaining for the Chief Judge position. At that point, Justice Kelly asked if anyone knew why Judge Faunce had withdrawn. Chief Justice Taylor explained that he was of the view that there were four

(4) votes for Judge Chmura, and that he had decided to call Judge Faunce to inform her that there were four votes for Judge Chmura and that Judge Faunce was welcome to withdraw or stay, but that he did not want her to be embarrassed because there were four votes for Judge Chmura and she would lose. Chief Justice Taylor related that Judge Faunce told him that she would withdraw her name and she did so.

Chief Justice Taylor's action of telling Judge Faunce that there were four votes for Judge Chmura and that Judge Faunce was welcome to withdraw or stay, before the justices had ever met to discuss and vote on the chief judge appointment, is another example of his unprofessional, improper, and unfair conduct as chief justice.¹

Chief Justice Taylor's actions effectively interfered with the chief judge appointment process because what he told Judge Faunce during his telephone call caused her to withdraw her name before the justices of this Court had even met to discuss the appointment.

Chief Justice Taylor has too often mismanaged the business of this Court. Harmful to the proper functioning of the justice system is Chief Justice Taylor's inclination to act secretly, not openly and transparently with respect to the administrative business of this Court. Administrative appointments of chief judges—judges who are elected public officials—constitute public administrative business, not personnel matters. Judges are not employees of the Michigan Supreme Court. They are elected officials of their counties or jurisdictions and are effectively only employees of the people of their counties or jurisdictions within the state of Michigan. This inclination toward secrecy also deprives the people of the information they need to properly make judgments on the justices' performance of their duties. The Supreme Court should not be a secret club run for the benefit of justices and judges.

As I have stated before, as for example, in my December 6, 2006 dissenting statement² to the majority of four's (Chief Justice Taylor and Justices Corrigan, Young and Markman) adoption of the unconstitutional "Gag Order" (Michigan Supreme Court Administrative Order 2006-08, which remains as an order on the record of this Court):

Over the past year and longer, the majority of four, Chief Justice Taylor and Justices Corrigan, Young, and Markman, have advanced a

¹ For other examples, see my personally funded website: **www.justiceweaver.com** including my January 5, 2007 dissent to this Court's election of the Chief Justice and my dissent from the approval of minutes concerning the rules for disqualification of justices.

² My December 6, 2006 dissent to Administrative Order No. 2006-08 is also on my personally funded website: **www.justiceweaver.com**.

policy toward greater secrecy and less accountability. I strongly believe that it is past time to end this trend and to let sunlight into the Michigan Supreme Court. An efficient and impartial judiciary is “ill served by casting a cloak of secrecy around the operations of the courts.” *Scott [v Flowers]*, 910 F2d 201 (CA 5, 1990).]

A good start at taking off the cloak of secrecy around the operations of the Michigan Supreme Court and letting sunlight into the Court can begin with publishing on our Michigan Supreme Court website at least the following:

1. administrative agendas for each scheduled administrative conference at least three business days before the administrative conference, except for emergency administrative matters;
2. draft proposed minutes of each administrative conference no more than three calendar days after the conference and always before the next administrative conference; and
3. live video transmission of all administrative conferences including all discussions and votes unless involving personnel matters.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 14, 2008

A handwritten signature in cursive script that reads "Corbin R. Davis".
Clerk